No. _____ (V)

Supreme Court, U.S.
FILED
96-314 AUG 6 '96

In The
Supreme Court of the United States
October Term, 1995

PAUL J. SCHAPIRO,
Plaintiff/Petitioner

v.

SARITA R. SCHAPIRO

MONTGOMERY COUNTY COURT, ET AL
MONTGOMERY COUNTY COURT, DOMESTIC RELATIONS SECTION, DAVID GUTIN, HORACE A. DAVENPORT, HON. ROGER B. REYNOLDS, JR., BERNARD A. MOORE, HON. SAMUEL W. SALUS, II, HON. JOSEPH A. SMYTH, HON. ALBERT R. SUBERS, HON. RICHARD LOWE, HON. MATHEW SANTANGELO, SANDRA NEWMAN, HON., ROBERT KATZ, JEAN BISECKER, ASTOR WEISS KAPLAN & ROSENBLOOM, (FORMERLY ASTOR, WEISS AND NEWMAN), FAIGA RUBENSTEIN, LYNDA SMITH, SUPERIOR COURT OF PENNSYLVANIA, SUPREME COURT OF PENNSYLVANIA JUDICIAL CONDUCT BOARD, WILLIAM ARBUCKEL, III

Defendants/Respondents

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

NO. 848 E.D. ALLOCATUR DOCKET 1995 (BIFURCATION)
AND
NO. 756 E.D. ALLOCATUR DOCKET 1995 (RECUSAL)

PLAINTIFF'S APPENDIX

VOLUME A (Federal)

George E. Walker, Esquire
234-236 South Eighth Street
Courtyard Entrance
Philadelphia, PA 19107
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50 pp

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 95-1511

PAUL J. SCHAPIRO; ON BEHALF OF HIMSELF
AND
HIS DAUGHTERS, JILLIAN SCHAPIRO,
LAUREN SCHAPIRO

v.

MONTGOMERY COUNTY COURT, Domestic Relations Section; DAVID GUTIN; SARITA R. SCHAPIRO; HORACE A. DAVENPORT, HON.; ROGER B. REYNOLDS, JR.; BERNARD A. MOORE, HON.; SAMUEL W. SALUS, II, HON.; JOSEPH A. SMYTH, HON.; ALBERT R. SUBERS, HON,; RICHARD LOWE, HON.; MATHEW SANTANGELO, SANDRA NEWMAN, HON.; ROBERT KATZ; JEAN BISECKER; ASTOR WEISS KAPLAN ROSENBLOOM, (FORMERLY ASTOR, WEISS AND NEWMAN); FAIGA RUBENSTEIN; LYNDA SMITH; SUPERIOR COURT OF PENNSYLVANIA, SUPREME COURT OF PENNSYLVANIA; PENNSYLVANIA JUDICIAL CONDUCT BOARD; WILLIAM ARBUCKEL, III; SUPREME COURT DISCIPLINARY BOARD OF PENNSYLVANIA; JOHN L. DOHERTY; ALAN DAVIS

Paul J. Schapiro, Appellant

Appeal from the United States District Court
for the Eastern District of Pennsylvania
D.C. Civil Action No. 95-cv000986
(District Judge: Honorable James McGirr Kelly)

Submitted Under 3rd Circuit LAR 34.1 (a)
December 5, 1995

Before: BECKER, McKEE, and SEITZ,
Circuit Judges.

JUDGEMENT ORDER

After consideration of all contentions raised by appellant, and essentially for the reasons set forth in the opinion of Judge Kelly, it is

ADJUDGED AND ORDERED that the orderss of the district court of June 7, 1995 and July 11, 1995 be and is hereby AFFIRMED.

Parties to bear their own costs.

BY THE COURT:

Circuit Judge

Attest:

_____

P. Douglas Sisk, Clerk

Certified as a true copy and issued in lieu of a formal mandate on January 22, 1996

Teste:

Clerk, U.S. Court of Appeals for the Third Circuit.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PAUL J. SCHAPIRO, on behalfof himself and his two minor children Jillian Schapiro and Lauren Schapiro	:	CIVIL ACTION
Plaintiff	:	
V.	:	
MONTGOMERY COUNTY COURT, ET AL.,	:	
Defendants	:	NO. 95-CV-0986

MEMORANDUM & ORDER

J.M. KELLY, J May 29, 1996

There are two Motions presently before the Court:

(1) Joint Motion for Sanctions and to enjoin Plaintiff from further Proceedings in this Court of Defendants Roger B. Rynolds, Jr., Mathew Santangelo, the Honorable Sandra Schultz Newman, David Guten, Robert Katz, Jean Biesecker, Astor Weiss Kaplan & Rosenblum, Sarita Schapiro and Faiga Rubenstein; and

(2) Plaintiff's Emergency Petition for Emergency Hearing in Front of a Judge to Correct, Modify, Reduce, and Eliminate; Support, Alimony Pendente Lite, Judgment, Bail, Bail Revoking and Imprisonment for the Past 4.5 Years Based on Merits of Case and for Other Special Relief ("Emergency Petition) The Court held a hearing on these Motions on May 23, 1996.

The above-captioned action, the second instituted by Plaintiff against the many named defendants, arises out of an ongoing divorce proceeding in the Court of Common Pleas of Montgomery County/ Family Division. On February 15, 1994, the court dismissed Plaintiff's first action, 93-CV-6175 ("1993 Action") relying on the abstention doctrine set forth by the United States Supreme Court in Younger v. Harris, 401 U.S. 37 (1971), and on Plaintiffls failure to prosecute. Plaintiff subsequently filed the above-captioned case, raising claims similar to those raised in the 1993 Action. In a Memorandum and Order dated June 7, 1995 ("June 7th Order"), the Court, relying again on the Younger abstention doctrine, dismissed with prejudice Plaintiff's Complaint. Plaintiff filed a notice of appeal of the June 7th Order [doc. number 39], and subsequently

filed a Motion for Reconsideration [doc. number 42]. The Court dismissed Plaintiff's Motion for Reconsideration because plaintiff had already appealed the June 7th Order [doc. number 43]. The United States Court of Appeals for the Third Circuit, however, stayed Plaintiff's appeal until this court decided Plaintiff's Motion for Reconsideration.

Cnsequently, Plaintiff filed a Motion requesting the Court to strike officially the Order dismissing Plaintiff 's Motion for consideration in light of the Third Circuit' s order [doc. number 46]. In a Memorandum and Order dated July 11, 1995, theCourt denied Plaintiff's Motion for Reconsideration on the merits ("July 11th Order") [doc. number 47]. Plaintiff then filed a Motion for Clarification and Specific Findings, which the Court denied. On December 5, 1996, the Third Circuit affirmed this Court's June 7th and July 11th Orders.

Plaintiff's most recent filing in this Court is a Judicial Notice of the Emergency Petition for Relief. It is unclear whether Plaintiff seeks a decision by this Court on his Emergency Petition, or

whether he merely desires to put the Court on Notice of the Emergency Petition. Although the cover sheet attached to the Emergency Petition includes the caption in the instant matter, the Emergency Petition itself has a caption from the Court of Common Pleas of Montgomery County, Family Division. Moreover, the Emergency Petition filed with the Court appears to be a photocopy, the original having been time-stamped as filed with the Office of the Prothonotary, Montgomery County, PA, 1996 Mar. 26 AM 9:26. Regardless of Plaintiff's intention, however, the Emergency Petition seeks relief that this Court cannot provide. The United States Supreme Court has instructed that domestic relations matters fall within the exclusive province of state courts. See. e.g., Ankenbrandt v. Richards, U.S. 689 (1992). If this Court were to grant Plaintiff the relief that he requests, it would be interfering with the pending domestic relations matter in Montgomery County. Pursuant to Younger v Harris, 401 U.S. 37 (1971), this Court should not and will not interfere with the pending state judicial proceedings Accordingly, Plaintiff's Emergency Petition will be denied.

In evaluating Defendants' request that the Court enjoin Plaintiff from filing further actions in this Court, the Court is mindful that judicially-imposed restrictions on an individual's access to the courts constitute an extraordinary remedy for the filing of frivolous suits. The Third Circuit, however, has clearly stated that "a continuous pattern of groundless and vexatious litigation can, at some point, support an order against further filings of complaints without the permission of the court." In re: Oliver, 682 F.2d 443, 446 (3d Cir. 1982)

A fair reading of the record in this action and Plaintiff's 1993 Action reveals that Plaintiff has engaged in a continuous pattern of seeking relief that is unavailable to him in this court on numerous occasions, in both the instant action and the 1993 Action, the Court has attempted to instruct Plaintiff that this Court lacks jurisdiction over his state domestic relations proceedings. At the hearing held on the pending motions, the Court once again informed Plaintiff that his claims are not properly before the Court. Plaintiff's conduct to

date and his remarks at the hearing, however, convince the Court that he is unwilling to accept the rulings of this court and of the Third Circuit. The Court is further satisfied that Plaintiff may improperly attempt to utilize this forum to litigate his domestic relations matters in the future, either by way of motion or by filing a new civil complaint, forcing Defendants to incur, once again, unnecessary expenses in responding to these claims.

Accordingly, the Court, pursuant to the All Writs Act, 28 U.S.C. § 1651, will direct the Clerk of Court for the Eastern District of Pennsylvania to refrain from filing or causing to be filed any complaint or other paper from Plaintiff Paul J. Schapiro without first forwarding said document to this Court for approval. See generally Gagliardi v. McWilliams, 834 F.2d 81 (3 Cir. 1987) (acknowledging the authority of the district court t enter a similar order). The Court will review the documents to determine whether Plaintiff raises issues or claims previously addressed or resolved by the Court in either 93-CV-6175 or 95-CV D986, or claims that are otherwise improper or frivolous. The court will refer all meritorious documents to the Clerk of Court

to be filed. As this Order does not bar Plaintiff from seeking judicial resolution of his nonfrivolous claims in this Court, I should not place any significant hardship on Plaintiff's access to the courts.

Defendant also ask that the Court impose monetary sanctions on Plaintiff pursuant to Fed. R. Civ. P. 11. In deciding whether to impose Rule 11 sanctions, courts should remain cognizant of the purpose of the rule, which is to deter the filing of baseless pleadings. Dover Steel Co. v. Hartford Accident & Indem. Co., 151 F.R.D. 570, 575 (E.D. Pa. 1993);see also Gaiardo v. Ethyl Corp., 835 F.2d 479, 482 (3d Cir. 1987) (noting that "Rule 11 was designed to prevent abuse caused not only by bad faith but by negligence and, to some extent, by professional incompetence"). The Court is satisfied that a monetary sanction under Rule 11 is not appropriate under the circumstances of this case. First, any deterrent affect that such an award may have is suspect, because it appears that Plaintiff may be unable to pay such an award. Second, the Court

is satisfied that the relief provided by this Order adequately addresses Defendants' concerns and shields them from incurring any additional costs and expenses in the absence of a valid claim by Plaintiff.

Accordingly, it is hereby ORDERED that:

1. Plaintiff's Emergency Petition for Emergency Hearing in Front of a Judge to Correct, Modify, Reduce and Eliminate; Support, Alimony Pendente Lite, Judgment, Bail, Bail Revoking and Imprisonment for the Past 4.5 Years Based on Merits of Case and for Other Special Relief is DENIED;

2. Defendants' Joint Motion for Sanctions and to Enjoin Plaintiff from Further Proceedings in this Court is GRANTED in part. The Court will not impose a monetary sanction on Plaintiff. However, the Clerk of Court for the United States District Court for the Eastern District of Pennsylvania is hereby DIRECTED to refrain from filing or causing to be filed any complaint or other paper from Plaintiff Paul J. Schapiro without first forwarding said document to this Court for approval.

BY THE COURT:

_____

JAMES McGIRR KELLY, J.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PAUL J. SCHAPIRO , etc. CIVIL ACTION

Plaintiffs,

vs.

MONTGOMERY COUNTY

COURT, et al.,

Defendants. NO. 95-986

May 23, 1996

(9:45 a.m.)

BEFORE: HON. JAMES McGIRR KELLY, J.

Oral Argument on Motion for Sanctions

For the Plaintiff:

PAUL J. SCHAPIRO, PRO Sé
Benson Manor - Suite 623
101 Washington Lane
Philadelphia, Penna., 19046.

For the Defendants:

DAVID GUTIN, ESQ.
Attorney for the Nonjudicial Defendants
The Bellevue - 6th Floor
Broad and Walnut Street
Philadelphia, Penna., 19102.

SWEENEY, SHEEHAN & SPENCER, ESQS.
Attorneys for Defendants Reynolds and Santangello
19th Floor
1515 Market Street
Philadelphia, Penna., 19102.
BY: WALTER S. JENKINS, ESQ.
SUZANNE O' BRIEN, ESQ.

(Transcript produced by mechanical shorthand
via C.A.T.)

(Appearances as noted, the following transpired in open court:)

THE COURT: Before the Court is a joint motion for sanctions to enjoin the plaintiff from further proceedings in this Court.

Several attorneys have entered their appearances in this matter. I don't know whether each of them wishes to speak on this motion for what, so I will listen -

DR. SCHAPIRO: Your Honor, there are only two firms here and David Gutin only represents himself, because Richard Fineman is not present here who represents all the non-judicial and Sweeney - this law firm and the lady behind represent only two defendant, Roger Reynolds and Santangello and I would like to state that I think I should have a court-appointed lawyer to help represent me, because I am a podiatrist, not a lawyer and I have spent over $400,000, close to a half million dollars - practically all my money and other people's money - **to try to defend against criminal activities that have been performed against me by the Montgomery County Court** and any other court, stopping its progression in this matter.

THE COURT: What are we are going to do, first? Are we going to hear about the people who are complaining about you and then you will have an opportunity to respond. We'll do this in an orderly way.

MR. JENKINS: Your Honor, Walter Jenkins, representing Matthew Santangello and Roger B. Reynolds, Jr

We filed a motion for sanctions. "We", being council for the nonjudicial defendants. That would be Mrs. Shapiro and her family and lawyers, plus - a joint motion with myself representing Mr. Santangello and Mr. Reynolds. I don't think your Honor needs a refresher course as to what has gone on in this litigation. It has been before you for a number of years. You dismissed the case a number of years ago. The same issues were advanced again by Dr. Schapiro. You dismissed the case again. It up on appeal again and the case was — the appeal was dismissed. I don't need - I would submit to the Court that I don't think 1 need to say anything more than what is in our motion which supports sanctions against Dr. Schapiro .

We have been with this for three plus years, arguing the same issues over and over again which clearly, he does not have a claim for and which your Honor has clearly dismissed on abstention grounds.

Just to add one other thing, the motion was filed some time ago and Dr. Schapiro was served with that motion. Dr. Schapiro has not answered that motion and I would submit it comes to you as unopposed.

THE COURT: Well, it's opposed - the Court may consider it as unopposed, but to do that would be really wrong, because it's obvious it's opposed.

MR. JENKINS: All right.

THE COURT: Please sit down, Doctor. You will be given

an opportunity. We're going to do this according to the rules.

Go ahead, please.

Mr. JENKINS: We don't know what the basis for Dr. Schapiro's opposition is and we can only presume what it is and we'll hear it for the first time and we have dealt with this for three plus years.

The purpose of the sanctions is for one, to award us counsel fees for the time and money and costs, as well, in defending this action over and over and over again and the other thing is to enjoin Dr. Schapiro from filing another case or another action which deals with the same issues over and over again. I think we have clearly set this out in our motion. It's 16 paragraphs long. The case law in there deals with the abstention and the right for counsel to secure counsel fee against a litigant or counsel, even a pro sé litigant such as Dr. Schapiro.

Might I add one thing while I have my chance here? Dr. Schapiro requested court-appointed counsel. I submit to your Honor that Dr. Schapiro knows the issues as well as anybody here and he has had ample opportunity to make this motion on any number of occasions and he has not done that, plus, as your Honor well knows, the appointment of counsel in a civil case, such as this is purely discretionary and deals with an issue of law that is so - must deal with an issue of law that is so complicated that a litigant such as Dr. Schapiro could not appreciate, understand, brief or whatever and your Honor, we have gotten stacks of documents this high (Indicating) filed by Dr. Schapiro which clearly

demonstrate, I submit, that Dr. Schapiro knows the issues and can brief the issues as well as anybody.

So I am just adding my two cents about the appointment of counsel which would further stretch this litigation beyond where we are now.

This particular motion for sanctions has been pending for over a year. In its initial form, I filed a separate one and then Richard Fineman representing Mrs. Shapiro and the rest of the family and the lawyers filed a separate one. After the Third Circuit dismissed the last appeal by Dr. Schapiro, we decided it would be in the Court's best interest to have one motion because the issues were the same, but in essence, these issues have been outstanding for over a year.

I thank you, your Honor.

DR. SCHAPIRO: Your Honor, this man committed perjury before the Court and he shouldn't be permitted to speak- David Gutin is the lawyer for - in this claim and he's committed perjury and fraud.

THE COURT: The procedure, Dr. Shapiro, is when parties are in favor of something, like the motions before the Court, those parties, at least counsel argue first and those parties who are opposed to the motion then argue second and if there is some things brought up in the argument by the other parties, then there is an opportunity for a brief rebuttal. That's the rules. That's the rules we're going to follow. So just relax now.

DR. SCHAPIRO: May I make one comment —

THE COURT: No. We're going to follow the rules. The rules are, you will have your time. Please be seated. Thank you.

All right, Mr. Gutin?

MR. GUTIN: Thank you, your Honor. Your Honor, I am here on behalf of the nonjudicial defendants, not just on behalf of myself. I am here on behalf of Sarita and Faiga Rubinstein, Astor, Weiss and on behalf now of the Honorable Sandra Newman, who is still named as a party in this matter.

Your Honor, with regard to two issues that were raised, I am not going to belabor it, the arguments are set forth in the brief and I don't want to go over the same issues Mr. Jenkins went over, but the issue of appointing counsel for Dr. Schapiro we were before the Court in Montgomery Court in March with regard to custody hearings and he had two separate lawyers representing him in that court, two separate lawyers in all of those proceedings. He somehow had the ability to pay counsel in the state court custody proceedings and I submit to have him come before you today to say he needs appointed counsel is inappropriate , and in addition, one of those counsel was here briefly this morning who stopped in to chat with Dr. Schapiro and then left, Mr. Walker,

There is no lawyer who will represent Dr. Schapiro because of the concern they possibly have for Rule 11 sanctions which have been brought to the attention of those attorneys and they don't want to subject themselves to the possibility of Rule 11 sanctions as counsel.

With regard to one other issue, your Honor, there had been some discussion prior to our appearance today of trying to resolve this matter by stipulation, seeing whether some argument could be reached to make it unnecessary to appear here today and those discussions took place between counsel who have been representing counsel in other matters. At the same time those discussions were taking place, Dr Shapiro filed this pro sé judicial notice statement, whatever it was called but it was dated April 17, 1995. One of the main reasons we're here is we recognize without some sort of injunction and some sort of order entered, Dr. Schapiro will continue to file actions, motions, petitions, whatever in the federal court while simultaneously litigating these matters in the state courts.

If he does not get an order he's satisfied in the state courts with, he comes down to federal court. It's a tremendous imposition on his former wife and the other people he names to have to litigate these matters in two jurisdictions. I think this Court adequately and accurately set forth the reasons for abstention and that's something that Dr. Schapiro will not pay attention to, will not agree to. He will continue to keep on filing matters and we then have no choice but to respond to those matters that are being filed. Otherwise, they would be deemed unopposed by the Court.

We have an obligation to our clients to do what we have to do. It is very important that an injunction be entered so that somebody would look at things before the clerk accepts them and make a determination as to whether or not there is any need for any other parties to have to make responses and file papers with the Court and further exhausting the Court's papers with the Court and further exhausting the Court's docket.

Lastly, with regard to the motion for sanctions. I believe very strongly if sanctions are entered, maybe Dr. Schapiro will think twice about the kind of conduct he's engaged in and that he's likely to continue to engage in.

THE COURT: Let me ask you this, the Common Pleas Court in Montgomery County, have they entered sanctions against Dr. Schapiro?

MR. GUTIN: There has been no application for sanctions and the standard is different. In state court you don't have a Rule 11 and you don't have the same procedures, if you will. Also in Montgomery County, many of the issues are still pending before the Court.

As I say, we just had a custody hearing in I believe was late February and March and orders were entered in March

THE COURT: What I am saying is, I know or at least I have read maybe some correspondence from Dr. Schapiro that the Court of Common Pleas put him in jail.

MR. GUTIN: That's not the same kind of sanction.

DR. SCHAPIRO: David Gutin has tried to sanction me and it was not by the Montgomery County Court.

THE COURT: I say this to you, Dr. Schapiro, you have to follow the rules and if you don't follow the rules, then the courts don't mean to do it, but they may not give you the consideration that

they would give somebody who follows the rules.

So please, sometimes in life, I don't say it is in this case, we are our own worst enemies. I will ask you to let Mr.Gutin finish and then you will be at bat.

Do you have anything else?

MR. GUTIN: Just so you understand what happened in Montgomery County, there was a hearing with regard to failure the pay support. He appeared before the court and they gave him the option of paying certain monies or going to jail and the sentence lasted for six months if he made no payments during that period and he made no payments and he served the six months and he was released on May 7th.

THE COURT: All right, thank you.

All right, Doctor.

DR. SCHAPIRO: There's been all sorts of reasons like bench warrants and I had a car accident in May 10, 1994 that has prevented me from coming forward and defending some of the actions that are before you.

There's been a lot of constitutional violations in my case and there needs to be a higher court overseeing this and taking some action against what has transpired.

The Montgomery County Court has like a pattern of taking up front money in advance, extortion and some day later they are going to correct this.

THE COURT: How far did they extort money?

DR. SCHAPIRO: What happens is they delay the hearings in my case, about 18 times for the correction of the mathematics of the case, where they buildup false arrearages and then take away your estate based on those false arrearages and then want you to pay monies on those arrearages and then they put you in jail for six months if you don't sign a piece of paper.

Like in July of 1994, they have you sign an agreement which was really under duress, coming out of two days in jail. I was just out of a hospital. I was in a wheelchair and the agreement of paying a certain amount was not based on any true figures or calculations. It was just made up and later, they would correct it- Well, later never comes in this case. It's been delays of about 18 times like I said and they keep — then there's been other - -

THE COURT: Have you appealed those to appellate courts .

DR. SCHAPIRO: I am not allowed now to talk to even my children.

THE COURT: You have appealed?

DR. SCHAPIRO: Just to talk to my children, to the superior, Supreme Court, we're in the superior court now for appealing that issue. I appealed the illegal taking of my estate. They took it without a hearing, without notifying my lawyers . Just one judge overruling another judge and they give away your estate, they' re temporary

judges with any knowledge of the case. I had the money, hundreds of thousands to buy my own house and I put proposals forward and even when they make an error, they don't correct it.

The law clerk, for the President Judge, he leaves after 1992 and joins Astor, Weiss & Newman and writes the petitions and gets David Gutin $10,000 out of the sale of my home. I have put $250,000 into the sale of my house, they sell it for half price and she takes all the money from the sale of my home. It's a lot of illegal procedures. There's been selective jurisdiction where a judge says ten times in February 27, 1995 hearing that he has no jurisdiction to precede and then on March 24th, he bifurcates the case and puts me on bench warrants and while I am not hospital with $2,000 in bills and revokes my bail. I have $75,000 bail that's over my mother's head, bothering her. There is arrearages of giving my wife $350 a week and a $1,065 a week support, which is four and a half thousand from September 23, 1991 to January 5, 1994. Four and a half thousand dollars and and I only get $1,000 a month. They took $4,500. Even Margie Lawrence - Judge Lawrence, said there was a large correction due me and she couldn't understand why I couldn't be with my daughters- I was a great father, a great parent, a great husband, a great provider. I am not working, because they put me out of my house and the same with my brother-in-law, he was put out too, after her father dies and they took away our house and furniture. She's making like $300,000 a year.

Right now, she's showing a $44,000 net. That's what the courts are calculating it at. She's declared bankruptcy, so she's using the courts right now to manipulate a little game here with the Court.

THE COURT: If she's making $300,000 a year or something like that, what's the cause for the bankruptcy?

DR. SCHAPIRO: We are having a forensic accountant do her books from 1991 to 1995 and that's going to take place soon. The case is starting to change, but there's been so much harm, because the Montgomery County Court only enforces orders against me. At the same time, they don't enforce orders against her. She violated every order — there are two orders and one agreement since the visitations back in November of 1991. She didn't let me have my visitations. She violated the September 20, 1993 agreement, for 15 phone calls. 57 times for my car accident and she violated the most recent order, the July 25, 1994 order, where David Gutin and two lawyers and my brother, I could have monitored weekly visits, it was all set up in exchange that I sign and I did sign twice, once in July of 1994 and she ended up getting $102,666, dropped the exceptions to the case, all the perjury and fraud that she committed and Gutin's law firm — they give her my BMW which her boyfriend drives and things and maintains a $75,000 bail. In exchange I was supposed to be able to talk to my daughters, to have visitations . This was an agreement. It didn't go into the transcript, but it was agreed and all the lawyers wrote letters about it and Mr. Gutin comes out with lies that it never occurred. It did occur twice, because she did allow me visititations twice, especially weekly.

Meanwhile the new judge comes and harms me further and takes away all my talking privileges to coerce me further to have an evaluation which will happen when I sign these forms, but after they do the exception hearing to raise her $44,000 closer to her gross of $300,000, at least through her past nets of over $100,000 and they have the retroactive hearing to change the $4,500 down to where it should be.

Now, also, I signed on December 5th and order for $6,000, where she got and judge Hodgson emphatically said that I would be

able to see my children. He looked at George Walker my lawyer and said, "You're going to get it."

THE COURT: Did he enter an order?

DR. SCHAPIRO: The order was from the court.

THE COURT: Did you get a copy of the notes of testimony?

DR. SCHAPIRO: Yes, December 5th. It's in the fifth volume or it may be prior to that.

THE COURT: You have got an order from the court. What's the problem then?

DR. SCHAPIRO: It never occurred and the courts ignore you. They deny you, they moot you, they quash you and refuse you and you can't get anywhere. I came to you on only one other time during that time, December 2, 1994. December 1st, we had the hearing with Judge Hodgson and he let me leave for a few days to think about signing and on December 5th, I ended up signing because I gave you a chance to sort of hold in abeyance the contempt until after the correction of the amount, the modifiction of the suport would take place and you didn't do that and I went in and I did sign, because I had many petitions that I knew I had to do and by the way - then they also asked emphatically - t;hey also said that I would get the correction on December 5th when I did sign within 60 days and that never occurred.

So I never saw - I couldn't see my children and my daughter loves me. She wants to be with me. My children want to be with me. I was a great parent. My wife, she' s just using the fact that she has connections with the court and her and her sister can get away with this and nobody will stop it.

THE COURT: Let me say this to you - -

DR. SCHAPIRO: I love my children and I can't see my daughters. It' s four years and eight months and I am patient enough . They don' t put contempt against her. They take away your privileges and make it worse and they allow a $44,000 net that has to be raised. I should be working. I should be seeing my children. Instead, I am playing games with petitions because that's the only way to try to get some justice in the case and there's been no justice in my case.

THE COURT: Did you discuss with your lawyer when you get adverse ruling, have you discussed with your lawyer file a writ of certiorari to the United States Supreme Court?

Let's assume you were in a bankruptcy court, a federal court, let's assume that and you are getting what you determine to be improper treatment from the bankruptcy judge. You wouldn't file a suit in Montgomery County to have the judge out in Montgomery County correct the federal judge, because it 's not within his jurisdiction.

The Supreme Court of the United States has spoken on this matter of abstention. The federal courts are not to get involved in domestic relations cases.

DR. SCHAPIRO: That's a bad policy. It might have have to go to the Supreme Court in my writ of certiorari, if I get any sanctions in this case.

THE COURT: Those are the rules. When the Supreme Court of t.he United States says this is the rule, it does not mean every district court judge or even the court of appeals. You took an order to the court of appeals and they sustained me, because I was following the procedure that has been determined by the Supreme Court of the United States to be a proper procedure in this type of a case.

DR.SCHAPIRO: I went to the United States Supreme Court twice.

THE COURT: I know.

DR. SCHAPIRO: This is a constitutional violation where there is perjury and fraud and I prove it in the courts and Reynolds, who he is defending, waits a whole year to write his report while I am in a hospital and then buries the evidence which we had voice analysis to show and I subpoena my daughters five times and they don't bring them in and nothing happened - - 100 percent, every order is denied on my part and everyone is granted on the other side. It's been a one sided battle. There is a $4.5 million disparity between me not working and how much I spent and how much furniture she got an all the equity in my home and they are laughing at me. They have everything and I don't even have a rug. All I have is paper.

THE COURT: What you can do is she's filed for bankruptcy, you can get a copy of that petition.

DR. SCHAPIRO: We're doing that. As of yesterday, we had a meeting and that is happening.

THE COURT: Let me again repeat, as far as I have reviewed this matter, you are in the wrong court - - wait a second, let me finish - - you are in the wrong court at this time. That has been tested before the Court of Appeals, which is the appellate court for this court.

It seems to me that if there is an adverse order f rom the Supreme Court of Pennsylvania, that you have the right and perhaps you say you are considering it or am going to do it, to file with the Supreme Court of the United States. The Supreme Court of the United States may change its policy. It may grant an exception.

DR. SCHAPIRO: They just sent me the rules of court everything from the Supreme Court and I have Rule 14.5.

THE COURT: The lawyers are right, if you were in Montgomery County complaining about some action before a bankruptcy judge, the judge in Montgomery County would say you have to go the appellate route of the federal courts · The rule is,

as a matter of policy.

DR. SCHAPIRO: That's a bad policy which you have.

THE COURT: It may be a bad policy, but I am not about to overrule the policy of the Supreme Court of the United States.

DR. SCHAPIRO: At this time, I will go to the United States Supreme Court and lay low with coming to your court and the Montgomery County Court at this time, since there is an 11th judge now involved in Montgomery County in this case now, to see if he is going to correct this.

So far, he came into this case and made the case worse. He's taken all the privileges from me to even talk to my daughters away and has not put her in contempt and allowed a $44,000 net and there are some retroactive things and they put it off on April 10th because David Gutin had to go on vacation and they delayed it again because we had a brief to review and illegal bail revoking when I was in the hospital and now they say it will be in the month of July and now there cancelling it until August.

This has been a pattern since the Santangello hearing in July of 1992. It's at my expense. Let's say if they correct it, I can get back to work and I can't work without at least being with my children and this one hundred percent not seeing my daughters is criminal. I have

spent $50,000 on each criminal activity and there is multiples of them, trying to defend against it. I never saw a judge take a portion out of a transcript who said he's good friends with Sandra Newman and he takes it out of the transcript, his only part where he says paragraphs and the Inquirer was there and my lawyer was witness and now they are impounding my daughter's testimony where she says she wants to live with me. They impounded it. I have never been among such criminals. I did thousands of patients, 3,000 bone surgeries. I am just geared for working. I have never sued anybody before. I just did my work and took my wife on 600 trips and we had a life, but her father died and she wanted a different life and she makes plenty of money and she has connections and they are pounding my lights out. They're just not giving me one chance and unless they correct the mathematical errors which they are going to do, but they're taking so long doing it and I am just wasting my time and life and energy and monies and nothing - - it' s taking too long and it goes on year- after-year

THE COURT: Why didn't you go back to the practice of medicine?

DR. SCHAPIRO: I can't talk to my children.

THE COURT: You mean you are so upset, you can't practice medicine.

DR. SCHAPIRO: Yes, but I am treating someone next week, but I am not charging them, but I am trimming some calluses.

THE COURT: Sometimes it's like being - - you have been in a terrible automobile accident and maybe sometimes they take a person's arm off or leg, that person still has to learn to live and what yvu have to live - -

DR. SCHAPIRO: I had $480,000 worth of medical bills and I fought against an accident that is incredible and I came back to at least try to still explain my situation and each time I give a little time period to see if the new judge will correct something and each judge comes in and they finish destroying the case and then a new judge and instead of correcting anything, he goes about destroying the case further and if I can't get anywhere and I have put my energies out, there is nobody in the World who can get anywhere with any court. It's impossible and you should at least - there's a petition that I wrote in my cell. It's only 23 pages and there is no place in 40 feet of petitions where you can actually see - i.n fact, it's going to be in a book, "Divorce Mafia." That is ah - -

THE COURT: What I am suggesting you do, Doctor, you may have been harmed, but I am suggesting that if you would go back and practice medicine and get involved in something else

and let the lawyers - -

DR. SCHAPIRO: I have had 17 lawyers. I spent a half million dollars.

THE COURT: Why did you have so many lawyers?

DR. SCHAPIRO: One lawyer was Mr. Gutin's partner and he didn' t tell me and I gave Jokelson $10 ,000 and he can't stop the sale of the house and Gary Jaffee said no lawyer can defend against a judge like that. Lynn Goldkin (sic) went 32 days against Sandra Newman and got clobbered by her by knowing about politics. There is David Gutin's law firm working so close with the judges, it is impossible for me. Maybe if certain people in my family were still alive, I would have some situation, but you know, I can't stop and I can't see my daughters and there taking too long to correct things and they illegally proceeded - - it's not like we' re just dealing with law. They actually committed crimes in order to to accomplish what they've done against me. Even when they recognized they made a mistake with the sale of the home, we presented a reconsideration, even a supersedeas. We put an appeal into that lower court and they never acted on it and our appeal never went forward to the Supreme Court, but our supersedeas did and we went. to the Supreme Court of Pennsylvania and all reconsiderations and then went into the U.S. Supreme Court and

then did a reapplication to it and it's automatic denials everywhere and I would get back to my work - -

THE COURT: I am suggesting to you, Doctor, that you have been in your mind - -and I am not suggesting that everything is one hundred percent one way or the other, but you have been - - litigation is a terrible experience for people. I think myself, I shouldn't do this, because I am practicing medicine now. I think if you got back to your practice and work at your practice and - -

DR. SCHAPIRO: But they have so many threat on me. They have a $75,000 bail. They've given her $75,000 in alimony

THE COURT: If you show up - -

DR. SCHAPIRO: They revoked it already, when I was in the hospital with many bills and he had no jurisdiction to even proceed because I said ten times I didn' t have it . They give $75,000 to a woman who makes $300, 000 a year.

THE COURT: She's bankrupt.

DR. SCHAPIRO: No, she's trying to escape to Florida because she has a boyfriend there and she has lowered her deductions deducting trips and giving money to her mother as an

an employee, takes out loans and deducts the interest and keeps the cash and buys equipment for her - I have everything explained in this 23 pages that I would appreciate if you would look at, because I painfully wrote this and I am not a lawyer.

THE COURT: I am satisfied of this, Doctor that the rules of law - - I have to follow the rules of law whether I agree with it or not, because that's what I said I would do when I took this job . I said I would follow the Constitution of the United States and the final arbitrator of the Constitution is the Supreme Court of the United States aand even they don't always agree. It' s not nine to zero and a lot of times it's a five to four vote, but the rule of law is, that I have to follow it.

DR. SCHAPIRO: But if you don't do something, there has to be someone overseeing the activity of this kind of thing and put a stop to it.

THE COURT: I will tell you what I am going to do and you are not going to be happy with it.

DR. SCHAPIRO: If you are going to put a sanction or anything like that, I am telling, I will appeal it to the U.S. Supreme Court.

THE COURT: I won't do it today, but I am going to give you a written order from which you can take the appeal -

DR. SCHAPIRO: I don't want to keep doing this. I want things to work out.

THE COURT: It's not going to work out at this level in this court.

DR. SCHAPIRO: I am going to postpone coming for a while to see how they - -

THE COURT: Let me tell you what I am going to do so you understand.

DR. SCHAPIRO: Remember, I had an acccident and I had to put the lawsuit back in and I changed it somewhat and there is not that many lawsuits that I have really done. It's just that they have not been acted on.

THE COURT: Every time these lawyers come into court, they charge their clients money for a case which shouldn't be this court.

DR. SCHAPIRO: They've only spend 10 or $20,000. I have spent ten times that representing - - against them.

THE COURT: This is what I am going to do. I am going to order to Clerk of Court, that any of your filings not to be but sent to me for review and if there is merit to it, they will be filed and if there is no merit to it in my view, they wouldn't be filed. That's a form of an injunction. It won't stop you from filing anything in this court.

DR. SCHAPIRO: I have alre ıdy had merit and I already presented it to you and you denied it basically because I haven't been able to come in and defended it and I have written it in 23 pages.

THE COURT: I will look at it.

DR. SCHAPIRO: You are not a defendant yet.

THE COURT: Okay.

DR SCHAPIRO: What I am saying, I only did a precursor to the U.S. Supreme Court. There are certain other rules that I have to do to make it right.

THE COURT: Other people have sued me too, and I understand that.

DR. SCHAPIRO: If you are going to defend this type of defendants, then that's what has to happen.

THE COURT: I am trying to tell you, you are in the wrong court. You have been told that. I have told you at least a couple of times today and by law I told you that when dismissed your actions and wrote an opinion. I don't think putting a money sanction on you, I don't think that's going to help.

I think what I am going to do is order the Clerk of Court not to accept for filing any complaints from you, but to refer them to my chambers for review.

DR. SCHAPIRO: That's going to be appealed to the Supreme Court.

THE COURT: If I feel they have merit in this case, I will allow them to be filed.

DR. SCHAPIRO: I already have merit in the case.

THE COURT: That's what I am going to do.

DR. SCHAPIRO: I am asking you to reconsider some of the past writings, even though they have been dismissed and if

you can't you have to recuse yourself from this case and let a different judge - -

THE COURT: You just went through the 10th or 11th judge out in Montgomery County. Now what you are saying, is every time I get a judge and that judge learns about the case, the next thing I know, I get another judge.

DR. SCHAPIRO: Sandra Newman is connected with those judges. You have never seen an order where Sandra Newman haas to write that they didn't part take in a decision in this matter because they just denied my bifurcation petition and the recusal petition.

THE COURT: If you want to, why don't you give the clerk a copy?

DR. SCHAPIRO: I left it right over there for you.

THE COURT: Fine. That's what I am going to do.

DR. SCHAPIRO: I just want you to see that I have submitted a petition. This is like over a year or so old, which has over - - about $400,000 of bills that I have spent and this does not count for the past year and a half, two years.

THE COURT: That's my inclination right now, that that would be a way that would hopefully satisfy the concerns of the defendants in this case.

DR. SCHAPIRO: There are litigants who put 60 lawsuits in. I only had to reput it in because I was in an accident and didn't defend it in the Third Circuit and basically, I have not put a lot of lawsuits in.

THE COURT: I understand.

DR. SCHAPIRO: I have had to put motions and things in to defend against certain things along the way. It's not something where I should be restricted and if that's the truth, then you're against the Constitution of restricting a person like myself from coming forward.

THE COURT: I know you believe that.

DR. SCHAPIRO: Yes, and that will become a problem and this is a pattern - this is a policy that has to be corrected, too.

THE COURT: I understand.

DR. SCHAPIRO: There is no way to stop what has

happened.

THE COURT: That's why I am telling you, not as a friend, because I don't know you very personally, but if you were an uncle or a brother, I would say, "Hey, get on with your life." I am not saying to stop what you're doing.

DR. SCHAPIRO: They have threats against me. They have a judgment still standing of $147 ,000 and they just reduced to it to $70,000 and she owes me $3 or $4,000 and she should eliminate that $75,000 alimony and correct retroactively the $4,500 or 5,000 they took. Even Margie Lawrence says there is a huge chunk owed to me and then the starvation of my daughter, she want t:o live with me.

THE COURT: How old is she?

DR. SCHAPIRO: September 16th, Lauren will be 11 and my other daughter Jillian will be 16 on August 5th.

THE COURT: Well, as I said, it's my reading of the law and that's what I have to follow. You know, it's like baseball, if I were inventing the game of baseball, I think I might allow four strikes and you are out, becau.e the batter - — because the pitches gets three strikes you are out and that's one less than the four balls,

but I am not inventing the game of baseball . It' s three strikes and you are out.

DR. SCHAPIRO: She's trying to take my children to Florida . It may be I won't see me, anyway so I am going to have to live near my children and there will be inter federal law suits going to Florida. This is unbelievable. I have two beautiful daughters and I can't be with them. Jillian can finish up there the 11th and 12th grade year. I am in the same district where she's going to school and she lost three months of schooling and they disciplined her and -

THE COURT: In two years, she will be 18.

DR. SCHAPIRO: My daughter is very young.

THE COURT: Yes.

DR. SCHAPIRO: We have to deal with the contempt and the mathematics because even if I get custody, I am playing around with the fact they are going to put me in jail six months and six months. I am just going to be sitting in jail. The worst thing I have ever done in life is a parking ticket and spoil my wife like I told you in the papers. Everything is right from the heart

THE COURT: I am taking the matter under advisement, but it's my current view that what I am going to do is what I said. I am going to order the Clerk of Court to refer all matters - -

DR. SCHAPIRO: Couldn't you let me at least try to work things out, since we are going to be doing an audit and there is a new judge and I am going to the U.S. Supreme Court so I don't have to take this into an appeal, I can stop some of the litigation and let me have some time to see what would happen and not be putting another restriction or another problem on me right now, so I can try to work things out?

THE COURT.: I think what's going to happen if I don't do this, you are going to file something - -

DR. SCHAPIRO: I am going to give you enough time, plenty of time, to try to see, because we have - things are changing now, but it does mean that the harm that has happened, you knoww, it's been terrible. It's been a nightmare. I have never seen anything like this. I was on top of the world, working, had my family.

THE COURT: I suggest you go back to work.
You are not being harmed by what I said I would do.

DR. SCHAPIRO: There is only three really defendants here out of all the defendants. The lawyers are protecting three defendants and I have not put that in many lawsuits, per se.

THE COURT: I will consider that.

DR. SCHAPIRO: I am not thinking right now of doing that. I am just trying to work things out and I don' t want a restriction on me.

THE COURT: It's not a restriction on you. You can send into this court anything you want to send in.

DR SCHAPIRO: You have a pattern also of completely denying everything.

THE COURT: If I do it wrongfully, you have a right to appeal.

DR. SCHAPIRO: I have already put it in and I want to stop it myself and I don't want a restriction. I am telling you I am going - - it is going to be a long period of time before I put it in - put anything in, so you don't need to - -

THE COURT: Hopefully, you will be able to work it out. My view is you shouldn't be putting anything in in this case in this courthouse .

DR. SCHAPIRO: I have a new lawyer, he's from Harvard Law School and I have been letting him put the petitions in .

THE COURT: Where is he today?

DR. SCHAPIRO: What do you mean, City Line Avenue - - oh, he has another hearing that he's involved in.

THE COURT: Why doesn't he enter his appearance in this case? No lawyer has entered his appearance in this case on your behalf.

DR. SCHAPIRO: I will tell you something, they all want more money.

THE COURT: That' s another reason why you should go back to practice.

DR. SCHAPIRO: I shouldn't go bankrupt trying to make a couple of points. Somebody should just read this petition and try to help it a little bit, instead of letting them - why do I have to be in jail for six months for just not signing a piece of paper that I don't owe her anything. She owes me hundreds of thousands. There is a big discrepancy here and it has nothing to do with the money- The disability money, I will cancel it. I don't want it really. I want to get

back to work. I want to be with my daughters. The disability money is like a couple percent of all the assets that we had and everything went to her. Every piece of furniture, basicaly, for almost a half million dollars. I haven't even gotten my Winter coat and I spent all my monies.

THE COURT: I know you have. I am sorry.

DR SCHAPIROl I can't stand not being without my daughters. I need them and I need to be with them.

THE COURT: I understand your position. I will take the matter under advisement .

DR. SCHAPIRO: I don't want to feel that I have to litigate this, your decision now, because I promise that's what is going to happen and it will be so much in the U.S. Supreme Court that eventually when Barsky's petitions reach the Supreme Court, they'll understand the situation. I want to try to ease down to see if the Montgomery County Court can ease things- She's taking my children away. The custody right now is in the Superior Court, but they take forever to answer and they will be already gone and she's trying to escape the bankruptcy business. All these are just games. She has manipulated and calculated everything .

THE COURT: I think your wife and you are before the jurisdiction of the Montgomery County Court and if she moves to New Jersey or Maryland, - -

DR. SCHAPIRO: I am in an uphill battle and he's making it almost impossible. We can't subpoena anything. We subpoena, they don't give it. We can't get records. The courts make it impossible to get my daughters' records. I have to subpoena the judqe to get the records and I get the records finally from if judge. It's been every little thing and I don't want to be a lawyer. I want to be in my practice and see my daughters and I want to stop this, but there are harms that have been done to me and I th.ink you should just look at some - - not maybe all the meritorious petitions, look at this one. It's a little differently put together, where it's in one spot and maybe I haven't presented the whole case correctly. Maybe it needs a lawyer doing the federal part.

THE COURT: I will review it. I promise you, I will review it.

MR. JENKINS: Your Honor, neither Mr. Gutin, nor I have seen this petition which your Honor is now going to review.

THE COURT: I will ask him to give you both a copy of it. I will give you a week to respond, if you care to respond.

MR. GUTIN: If you are not going to take any action before he files anything, if that's your decision, maybe we don't have to respond at all. If this is something this Court should abstain from, I shouldn't have to waste the time responding.

THE COURT: I understand. Good morning.

(Whereupon, at 11:00 a.m., court was adjourned)

CERTIFICATE

I certify that the foregoing is a correct transcript from the record of the proceedings in the above-entitled matter.

May 30, 1996 _____
Date Philip Feldman, C.S.R., C.P., C.M.
Official Court Reporter